

Appl. No.: 10/573,950
Amdt. dated November 10, 2009
Reply to Office action of October 8, 2009

REMARKS/ARGUMENTS

This Amendment is submitted in response to the Office Action mailed October 8, 2009. As explained in further detail below, Applicants have amended independent Claims 1 and 21 for clarification and to further distinguish the cited references. Claims 22 and 23 have been added. In light of the amendments and subsequent remarks, Applicants respectfully request reconsideration and allowance of the claims.

In the Office Action, the Examiner rejects Claims 1, 4, and 7-21 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Appl. Publ. No. 2002/0022877 to Mueller et al. The Examiner rejects Claims 1, 5-8, 11-14, and 18-21 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,942,690 to Pollock et al.

In Applicants' previous response, independent Claim 1 was amended to recite that the concavely rounded throat sections are configured to intermesh with, and extend at least partially over, adjacent transitional sections in the initial state. However, the Examiner continues to believe that Mueller anticipates Claim 1. In particular, the Examiner contends that with respect to Mueller, "the concave throat sections [are] configured to intermesh with and extend at least partially over (*extends higher, more proximally and more distally thus considered 'over'*) adjacent transition sections (22) in the initial state. Moreover, the Examiner now rejects Claim 1 in view of Pollock. Namely, the Examiner relies on FIG. 22a of Pollock as showing widened intermeshing head ends.

Initially, Applicants note that in the Office Action, the Examiner has failed to provide Applicants with a sufficient claim construction or interpretation of the cited reference so as to enable the Applicants to effectively formulate a response. See MPEP §706 and 37 C.F.R. §1.104(a-b). In the instant case, other than paraphrasing portions of Applicants' claim language with annotated citations to the cited references, the Examiner provides no specific finding or other explanation regarding several of Applicants' claims, the cited references, or the application of the cited references to Applicants' claims. The Examiner does not even address several of Applicants' dependent claims. Thus, the Examiner fails to provide a clear explanation regarding actions taken during prosecution of the present application. In view of the foregoing, should the

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Examiner continue to reject the claims as being disclosed by the cited references or on any other ground, Applicants respectfully request that the Examiner submit on the record specific findings as to the construction being applied to the pending claims, an explanation of the references being cited against the pending claims, and how the cited references disclose the recited features of the claimed invention.

In any event and in response to the rejections, Applicants have amended independent Claims 1 and 21 for clarification and to further distinguish the cited references. Namely, Claims 1 and 21 have been amended to recite that the concavely rounded throat sections are configured to intermesh with, and extend at least partially over and abut, adjacent transitional sections in the initial state. FIG. 2 of Mueller clearly shows the difference between an expanded state and a non-expanded state and that the bulging ends (12) do not extend over and abut adjacent elements (10) in the non-expanded state. In fact, the Examiner indicates in the Office Action that amending Claim 1 to recite that the “throat sections [] intermesh with so as to extend at least partially over and abut (or in abutment with) adjacent transitional sections in the initial state” would overcome Mueller. Therefore, Applicants submit that independent Claims 1 and 21 are distinguishable from Mueller.

Moreover, independent Claims 1 and 21 have been amended to recite that every other transitional section at the proximal and distal ends of the tubular support frame has a widened head end having a larger maximum width measured transverse to a longitudinal axis of the tubular support frame than a head end of an adjacent transitional section, wherein each widened head end. For instance, FIGS. 1 and 2 of the present application illustrate that the head ends (11, 12) have different shapes, with the head ends (12) having a mushroom shape having a larger width than adjacent head ends (11). Thus, the different shaped ends may allow the transitional sections to intimately intermesh in the initial state. In contrast, Pollock discloses that each of the transitional sections has the same width. As such, Pollock also fails to teach or suggest independent Claims 1 and 21.

In view of the remarks and amendments presented above, it is respectfully submitted that independent Claims 1 and 21 of the present application and those claims that depend therefrom are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued

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in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

Applicants have added independent Claim 23, which includes similar recitations as that of Claim 1, but alternatively recites that the tubular support frame further comprises a plurality of deflection elements for a thread looping around the outside of the support frame that are arranged on the annular segments at the proximal and distal ends of the support frame, wherein each deflection element comprises an eyelet configured to receive a thread therethrough. For instance, FIG. 2 shows deflection elements (24, 25). None of the cited references teaches or suggests new Claim 23. In fact, dependent Claim 4, which also recites that the stent includes deflection elements, is not even addressed by the Examiner in the Office Action. As such, Claim 23 is also patentable over the cited references.

The patentability of the independent claims has been argued as set forth above and thus Applicants will not take this opportunity to argue the merits of the rejection with regard to the dependent claims. However, Applicants do not concede that the dependent claims are not independently patentable and reserve the right to argue the patentability of the dependent claims at a later date if necessary. For example, neither reference teaches or suggests deflection elements for looping thread around the outside of the support frame, as recited by Claims 4, 9, 10, 16, 17, and 23.

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It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



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